Supreme Court, U.S.
FILED

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No. 04-

IN THE

Supreme Court of the United States

LARRY CONWAY,

Petitioner,

v.

EDITH NUSBAUM, TRUSTEE FOR
DR. MARK NUSBAUM,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Is it the duty of a Trustee to uphold the integrity of the bankruptcy system and insure that all parties in the proceedings are treated fairly and free from fraud?

2. Whether .the good faith requirement of the bankruptcy law, is applicable in a case where a first mortgage creditor based upon a fraudulently signed contract and motion for relief from stay by a first mortgage holder to presale a Chapter 11 debtor's real property to another straw party before first mortgage creditor had rights to foreclose or own the property, for $125,000, which property was appraised at $4,000,000 "as is" and debtor had a bonafide contract to sell for $6,500,000 within the first 90 days of a chapter 11 reorganization?

3. Whether it is considered fraud when a creditor holds three to four valid mortgage payments checks uncashed, that were all timely received and goes into open bankruptcy court and admitted, they "did not try to deposit or cash checks, because they thought they were not good" and create a pretext for default and receives relief from stay?

4. Whether it is considered fraud when creditor refused to give debtor right to cure, time, date and place of contrived and closed sale of debtors property, transferring several millions of dollars of debtor's equity to themselves in this contrived, fraudulent and closed sale, after refusing to allow debtor his express contractual right to cure the pretextual default or give them time, date, place of the foreclosure sale or the exact amounts claimed, as is required by State Law?

5. Would these acts by creditor be considered plain fraud against the creditors of the estate and fraud in a title 11 case with intent to defeat the bankruptcy law, or is this the intent of the safe harbor provision of 11 U.S.C. § 363(m) that makes such a case moot, merely because they fraudulently foreclosed in bad faith and debtor did not and was unable to obtain a stay pending appeal? Especially, when all of these issues were expressly raised in the bankruptcy court and the appeals court below and a stay was denied, and these issues not addressed?

6. Is 11 U.S.C. § 363(m) a safe harbor or is the mootness doctrine a haven for criminals, for frauds and bad faith by a creditor working in concert with the United States Trustee and the Bankruptcy Judge, perverting their offices into criminal enterprises, taking and withholding official actions in a continuing scheme to defraud in Title 11 cases and defeat the bankruptcy law?

7. Where debtor has equity cushion, of 30 to 60 times the debt of a creditor, can relief from stay be given in a chapter 11 reorganization case during the first 90 days on improved property whose valuation has been certified by state licensed general appraisers in writing and in sworn testimony and is unrefuted?

8. If debtor has a bonafide contract to sell real property in a chapter 11 with $50,000 non-refundable earnest money, is it the duty of the court to give debtor a chance to sell said property and reorganize their affairs? Especially where there are multiple assets with 5 to 6 times debts which are 95+% fully secured and only a small amount of valid unsecured debts owed mostly to family and friends?

9. When the Bankruptcy Judge makes intentional factual errors in her order giving Relief from Stay to conceal fraud,, should this be considered a moot issue in a title 11 case or is fraud a criminal act in a title 11 case?

10. Whether a bankruptcy judge has the powers to rewrite the purpose and intent of the bankruptcy law, refuse reorganization of debtor's plan and involuntarily convert to a chapter 7, deny discharge and ten months later, order armed United States Marshals to break in and enter into debtor's property by armed force and seize/confiscate and loot everything in it, without taking inventory or having a meeting of creditors over a 2 year period, or giving accountability for the contents confiscated? And under threats, force and fear, dump all files and legal proof from debtors home and office file cabinet and desk into a tangled mess in the middle of the debtors floor at debtor's residence?

11. Does a bankruptcy judge have the jurisdiction or power to give relief from stay on debtor's property after the dismissal of a bankruptcy case months later, as was done in one of these appeals or does it merely become a moot issue because this judge retaliatorily converts debtor's case and denies discharge?

12. When the creditor does not establish or prove written verification of value as to the property's equity, should his verbal valuation be considered more valuable than written, certified appraisals given by State certified licensed appraisal experts filed in court and testifying under oath to these values?

13. Is 11 U.S.C. § 363(m) a safe harbor for frauds and bad faith that is challenged and judge malicious errors in

facts in furtherance of scheme to defraud in a title 11 case with intent to defeat the bankruptcy law, without addressing these issues, does 11 U.S.C. § 363(m) place a limit on appellate review and appellate remedies?

14. Has the United States Congress and the United States Supreme Court mandated that a debtor in a chapter 11 case has an exclusive period of not less than 90 days "or such later date as the court may determine for cause by order entered with in that 90 days, or such later date as the court may determine for cause by order entered within that 90 day period" to propose and file a reorganization plan during this exclusive period"? Is it the public policy and objective of bankruptcy law to attempt repayment of debts?

15. Is it possible for a first mortgage creditor without fraud and intent to defraud and defeat the bankruptcy law to receive relief from stay in a chapter 11 case during the first 90 days on a first mortgage lien of only about $150,000 on a real property/commercial building, 30 years old, structurally sound, of about 80,000 square feet, eight stories, concrete and steel, located on about two and one half acres of prime property, land alone was appraised for $2,330,000, worth minimally $2,160,000 to $10,000,000 as certified by four different State licensed general appraisers who completed and filed with the court, written appraisal/valuations and testified in court?

16. Whether creditor or straw purchaser should be allowed to profit from the $8,500,000.00+ and the $42,000,000 proposed shopping center and other business that is being built on debtor's prime real estate that has been fraudulently foreclosed on along with debtors two adjacent commercial real estate properties? One of the adjacent properties was a newly built less than 3 years old state of the

art, conveyor driven car wash worth 2-3 million dollars, in open violation of the automatic stay, in furtherance of scheme to loot all the assets worth 18 to 20 million and debts of 1 to 3 million of debtor and his wife and estates which they have now almost perfected in their continuing scheme to defraud in title 11 cases and defeat the bankruptcy law; Is this clear bankruptcy fraud, or what?

17. Is it legal for creditor's attorney to add $15,000+ attorney's fees to the balance of mortgage owed for relief from stay that had been prior paid by debtor, along with other overpayments to creditor which were never properly accounted for?

18. Is it blatant fraud when the court had prior ruled and the creditor and their attorney acknowledge and ruled that debtor's property hereunder had significant equity and value above said creditor's debt, yet falsely file with intent to defeat the congressionally mandated bankruptcy law a bad faith motion for relief from stay stating no equity in property?

19. Whether there exists a factual, legal or equitable basis for applying the exception to the bankruptcy mootness rule based upon fraudulent and bad faith motion for relief from stay filings, wherein real property is sold fraudulently after the lifting of the automatic stay?

20. Does a United States Bankruptcy Court and/or a lower court in Memphis, Tennessee have a duty to protect the rights of all citizens and follow the mandates of the United States Supreme Court, the United States Congress, the law and United States Constitution in Memphis, Tennessee or may they arbitrarily deprive citizens of their rights, the law and these mandates as was done in the court below?

21. Where a creditor and/or their attorney have unclean hands, do they lose their claims, defenses and rights, if they had any?

22. Whether equity will allow a party to profit from their wrongs or is there a remedy for every wrong to a parties rights?

23. Does it constitute a badge of fraud and actual fraud and civil and criminal contempt of court as provided by Title 18 U.S.C.S. § 401 for a creditor and or their attorney/s to knowingly and willfully violate and disregard, Title 11 U.S.C. § 362, the Automatic Stay/Injunction and sign and conspire to sign contract to sell debtor's property prior to foreclosure?

24. Does it represent intent to defraud in a title 11 case and defeat of the bankruptcy law when a creditor files bad faith motions for relief from stay and does not serve it as mandatory upon the debtor and all creditors as required 11 U.S.C. Bankruptcy Rules 2002(a) and § 4001(a)(1) and is this not constitutional right deprivation to due process of law?

25. Does the purpose and intent of Chapter 11 of Title 11 U.S.C. and public policy intend that debtor even if they have no equities in real property when they have multiple creditors and multiple assets, be given breathing spell and an opportunity to file plan attempting to reorganize their assets and business to repay all classes of creditors as voted upon and agreed by the creditors and the law?

26. If a bankruptcy judge issues an order knowingly, misstating and omitting material facts and law to cover-up, aid, abet and assist fraud in a title 11 bankruptcy case, is this

proof of their taking and withholding official action under color of official right and acting in furtherance of an ongoing conspiracy and scheme to commit bankruptcy fraud to defeat the bankruptcy law?

27. In a question of mootness before a court of equity and law, does the valid criminal code supercede the civil code in the determination of mootness?

28. Does the Appellate court have a duty and authority over a bankruptcy judge, trustee, and United States trustee, attorney, officers of the court, or others to mandate that they or others be investigated and in the best interest of justice and the public interest, be removed from their official positions of public trust; wherein there is found pervasive and willful official corruption, disregard of oaths of offices, neglects of duty, perversion and misuse of ones official offices?

29. Do creditors and their attorney/s have a duty not to willfully file false claims, oaths, and statements in a Title 11 case and if they do, does .it constitute fraud in a Title 11 case as provided 18 U.S.C. § 152, *et al.*?

30. What constitutes bankruptcy fraud and racketeering in a title 11 case and is this a moot issue for this court, if it is being perpetrated by court, trustees, government officials and private parties on an ongoing basis, openly in the bankruptcy court at Memphis, Tennessee by taking and withholding official actions under color of official right?

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The opinion of the United States courts of appeals appears at Appendix A to the petition and is unpublished.

The opinion of the United States District Court appears at Appendix B and C to the petition is unpublished

The opinion of the United States Bankruptcy Court appears at Appendix D and E to the petition is unpublished.

STATEMENT OF JURISDICTION

For Cases from **Federal Courts**:

1) The date on which the United States Court of Appeals for the Sixth Circuit entered its depositive opinion is August 19, 2004.

2) No petition for rehearing was timely filed in my case.

3) An extension of time to file the petition for a writ of certiorari was granted to and including 1/16/05 on 11/19/04 is Application No. 04A418.

4) The jurisdiction of this court is conferred by section 1254(1) of Title 28 United States Code.

Cases from **District Court**

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

4th, 5th, 6th, 13th, 14th Amendments to the United Constitution.

11 U.S.C. § 362(a); § 363(m); Local Bankruptcy Rules 4001(a)(1);9013(a)(b)(1); 18 U.S.C. §§ 2, 3, 4, 35(b), 152, 153, 155, 157, 241, 242, 371, 401, 872, 1001, 1341, 1342, 1503, 1509, 1512, 1513, 1621, 1622, 1623, 1951, 1951(b)(2), 1961, 1961(d), 1962, 1963, 3057, *et seq.* Title 28 U.S.C. §§ 157(d) withdrawal of case to district court, 455 disqualification of a judge.

STATEMENT OF THE CASE

The under appeals are a combination of two appeals and orders from the bankruptcy court, district court and appeals court that concerns the obtaining of relief from stay by respondents and their attorneys who filed a bad faith motion for relief from stay willfully with knowingly false claims and false statements as part of a continuing scheme and ongoing conspiracy to commit frauds in title 11 cases and defeat the bankruptcy law at Memphis, Tennessee. This scheme involves the certain creditors, private parties, attorneys, United States Trustee, bankruptcy Judges (at least 2) who are working in concert and have preagreed to outside the judicial process to willfully take and withhold official actions under color of official right, and perversions of their official powers, with intent to commit frauds and defeat the bankruptcy law. That their operations have made Memphis "*The foreclosure and bankruptcy capital of America*". In recent times. Which for this ring of fraud and corruption have made a certain group of bankruptcy attorney

practitioners and certain businesses acting in concert, wealthy, millionaires and multimillionaires and it is estimated that this pattern of racketeering ring and their continuing enterprises and associations in fact as defined 18 U.S.C. §§ 1961, 1961(d), 1962, 1963, *et seq.* are estimated to be economically looting the local and national economy of over 100 million dollars a year. That, this ring of corruption has so much corrupt power in Memphis, Tennessee because it has the power to economically and legally terrorize the citizens, especially, African Americans that even the lawyers, themselves are afraid to challenge, and speak out or go against these criminals, for fear of professional, economic and political suicide. This appeal and case is but the tip of the iceberg of what has happened below and is still continuing in retaliation for petitioners Larry Conway and His wife Marilyn Conway, officially filing sworn affidavits and speaking out of continuing frauds and criminal corruption at Memphis, Tennessee in the Federal Bankruptcy Courts as is mandatorily required by Title 18 U.S.C. § 3057 as Trustees for one of their almost wholly owned corporation known as Jacmar Enterprises Inc., that was forced into bankruptcy because a group of powerful politically connected businessmen and government officials wanted their commercial property for their own use and did not want to pay for it. They openly committed every kind of illegal and malicious act to take these properties that no other independent African American businessmen in the history of Memphis has ever owned or now owned. This prime property primarily included the subject property of these appeals that is prime high traffic, highway commercial zoned on the interstate highway that is planned to be built a new $400 million dollar light rail to the airport and which everything around it from downtown and the medical center has over 3 billion dollars on the drawing board, under

construction or newly completed from the $1.4 billion St. Jude hospital to the $250 million FedEx Forum home of the NBA Grizzles. There is very little large prime property that exists underdeveloped in Memphis, Tennessee, unless you tear something down. This property sat 100 feet away from the richest social club in the South, that does not admit generally African American as members and only in recent years admitted two African American couples to prevent their other members from being denied appointments to public boards and commissions.

Certain members of this social club targeted the petitioners to force them to sell his property to them for 1 million or make them a controlling partner and because of their political and economic power, direct city and government officials to start harassing illegally breaking into and filing groundless and bogus quasi-legal code citations and blackballed, i.e. openly illegally boycott and run us out of business.

They point blank extortionately told us if we made them partners they could make all our problems go away and if not they would take our hotel, tear it down or condemn it if necessary, even though it was a structurally sound class "A" constructed, steel and concrete building, less than 30 years old, 8 stories and state certified appraised for $4,000,000 "as is" giving the land a value of $2,330,000.

The powers of these businessmen are so great in Memphis, Tennessee that they have formed a machine of corruption that has its genesis in the "Old E.H. Crump Machine" from the 1920 to 1950, that today has a gangster political boss that is above the law and makes policy for the city and systematically loots its and has most of the politicians

in his pocket and has become the largest landowner in Shelby County and the richest man in the city with several billionaires.

As a result of all this to teach debtor a lesson, the United States Trustee's Attorney, Sean Haynes, who is the king pin and ringleader of the bankruptcy fraud at Memphis, Tennessee openly, extortionately threatened petitioners that "he would teach him a lesson" and threatened any attorney especially African American of which there are only a few that you can count on one hand that are allowed to regularly practice and file Chapter 11 cases and each one at least 3 were not allowed to represent petitioner, his estate or business and in each instance the case was dismissed under pretext to cover-up and defraud and defeat the bankruptcy law at Memphis, Tennessee by stating failure to have attorney which is contrary to the purpose and intent of the bankruptcy law.

The bankruptcy judge Jeannie Latta openly insulted on the record petitioner and his attorney in his very first ever filed chapter 11 the year 2001 after one of the lawyer members of this racketeering gang on the express orders of Sean Haynes and Ellen Vergos authorized them to willfully, fraudulently, extortionately and contempt of the federal judiciary foreclose upon debtor 2 to 3 million dollar newly built business property adjacent to the hotel, the subject property and bankruptcy judge Jeannie Latta refused to uphold the congressionally mandated federal court order injunction of 11 U.S.C. § 362(a) The automatic stay and after further and continuing violations dismissed the chapter 11 case only 6 weeks after it was filed to prevent petitioners obtaining mandatory damages as provided 11 U.S.C. § 362(h) and to protect the fraud and defeat the bankruptcy law.

At the so-called kangaroo court hearing, bankruptcy judge Jeannie Latta extortionately told petitioner on the record that she "was not going to allow the petitioner to use the bankruptcy court to stop the foreclosure of their property." Moreover at this same hearing, judge Latta venomously oppressed and openly insulted both petitioner and his African American attorney, Gerald Green and stated "neither you or your client has the acumen or sophistication to be in a chapter 11 case". She went on to say that " unfortunately, there were no African American attorneys qualified in Memphis to practice chapter 11 bankruptcy law".

The United States Trustee Ellen Vergos and Sean Haynes ratified this fraud and defeat of the bankruptcy law. In the subsequent filed chapter 11 reorganization hereto that petitioners/debtor timely filed and proposed a plan paying off all valid creditors and debts 100%, the United States Trustee and Judge Latta in concert for reporting them for frauds, extortion under color of official right and racketeering and conspiracy to the United States Attorney and FBI under sworn oath of penalty of perjury as required 18 U.S.C. § 3057 as Trustee/s in Possession. Soon thereafter the United States Trustee and Judge Jeannie Latta pretextually converted the case to a chapter 7 and refused to allow the creditors opportunity to vote on or approve the reorganization plan which was timely submitted by debtor. This reorganization plan was in the best interest of the debtor and the debtor's estate. The Judge Jeannie Latta and United States Trustee's attorney Sean Haynes had prior allowed relief from stay on a similar series of bad faith, fraudulent motions for relief from stay with the same "modus operandi", did not give timely notices to all the creditors, though mandatory, did not have a valid appraiser or good faith reason to file. In each case the creditors were over secured and in each instance the

bankruptcy judge Jeannie Latta and the United States Trustee and their attorney Sean Haynes took and withheld official actions and granted relief from stay in these prior cases. Judge Jeannie Latta even annulled the stay in the prior case for the fraudulent foreclosure in open violation of the automatic stay for the law firm who did so that represented a creditor against petitioner, though they were the prior attorneys for petitioners and their business with knowledge of proprietary information concerning petitioner. This was after they openly violated the stay in the instant chapter 11 case that was converted as reward benefit and/or payoff to the United States Trustee, Ellen Vergos went directly to work for this same law firm as part of the continuing scheme to defraud and defeat the bankruptcy law at Memphis.

That the petitioner's case was maliciously converted for the express purpose of defeating and attempting to make petitioner's case moot and deprive petitioner of any rights to remedy and redress and loot the rest of their multimillion dollars of assets and property in furtherance of the continuing scheme to defraud in a title 11 case and defeat the bankruptcy law at Memphis.

The proof of this intent is the pervasive ongoing frauds and defeat of the bankruptcy law and the rewriting of the United States Constitution and the over ruling of the United States Congress and the United States Supreme Court can be and will be found in the record which will clearly show and expose this ongoing scheme and conspiracy.

Further, by the fact that to date the petitioner has lost over 18 million dollars of certified and appraised assets, real and personal with the payoff of only about 1 million dollars of debts and petitioners has been forever left with almost

3 million dollars of debt with no assets, because these corrupt officials in concert have retaliatorily deprived petitioner of fundamental constitutional rights to an attorney, due process and equal protection of law.

After the debtor chapter 11 case was dismissed the United States Trustee and Judge Jeannie Latta hand picked without hearing, P. Preston Wilson, one of their racketeering members to perfect the looting and even before the date set for first meeting of creditors he abandoned this claim, property and the rights thereto, with no appraisals and no inventory of assets from the date of conversion of 11/7/02 to the present 3/16/05.

That no mandatory inventory of chapter 7 assets has ever been completed and filed with the United States Trustee, though the bankruptcy law mandatory requires that the chapter 7 trustee must file this inventory report within 30 days as provided 11 U.S.C. Bankruptcy Rule 2015(a).

Moreover, no mandatory meeting of creditors with debtor under oath has never been held to date from 11/7/02 date of chapter 7 malicious and retaliatory, extortion under color of official right conversion. This meeting of creditors is mandatorily required to be held within 20 to 40 days as provided 11 U.S.C. Bankruptcy Rule 2003(a)(b)(c) and the time for holding this meeting cannot be enlarged by the judge as mandatory provided 11 U.S.C. Bankruptcy Rule 9006(b)(2).

This Chapter 7 case should have been dismissed by law about 60 to 90 days after 11/7/02 but instead has been continued by this ongoing lawless conspiracy to date. On 8/2903 the bankruptcy judge Jeannie Latta in excess of her jurisdiction and the law gave an order to P. Preston Wilson to break into by armed force and search debtor's home with

armed United States Marshals. During their search, the chapter 7 trustee still did not take or file inventory of debtor's personal assets within debtor's residence. On 2/3/04 of last year Judge Jeannie Latta denied debtor discharge of any and all debts. This ruling should have ended the chapter 7 case, the automatic stay and her lawful jurisdiction as provided 11 U.S.C. § 362(c)(2)(c) and Rule 4006.

However, to openly, unconstitutionally, unlawfully and extortionately, retaliate and rob debtor, Judge Jeannie Latta took and withheld official action under color of official right and issued an order to P. Preston Wilson, the chapter 7 trustee, to break into with armed marshals with deadly force if necessary and rob, steal, loot and defraud debtor of all of his property, his wife's property and any other property located in the home of debtor. Even though debtor's wife was in a separate chapter 11 reorganization in a different judge's courtroom, Judge William Houston Brown.

It has been two years since the conversion of the chapter 7, with no exemption of property to debtor. On October 27, 2004 Judge Jeannie gave yet another order by surprise, with no notice to debtor to P. Preston Wilson to break into debtor's home with armed Marshals in the early morning hours with moving trucks to loot, seize, confiscate all the property inside of debtor's 8,000 square feet home. They took even the mirrors off the bathroom walls, dishes, office furniture, artifacts, fine art etc.

Bankruptcy Judge Jeannie Latta held a hearing on short notice on the 18th of November and gave P. Preston Wilson orders to sell all the valuable personal property, with no accounting or inventory of property, in a yard sale type

auction which property was worth 3 to 5 million dollars but sold for approximately $300,000 to $500,000 dollars.

To date no inventory or accounting of property or monies have been filed or obtained. This unprecedented lawless and unconstitutional assault, outrage and continuing racketeering conspiracy and bankruptcy fraud can only be stopped by this court.

This has now risen to the level of gross human rights violations and is seeming being sanctioned by the United States Government and courts below.

Judge Jeannie Latta has now conspired with Judge William Houston Brown at Memphis, Tennessee to convert the Chapter 11 case of debtor's wife Marilyn Conway on 1/13/05 after all her possessions have been confiscated in violation of the automatic stay 11 U.S.C. § 362(a) to a chapter 7 and have transferred it to Judge Jeannie Latta's court room and appointing 1'. Preston Wilson as the Trustee. They have joined her case with debtor's case that has been dismissed by law upon denial of discharge on 2/3/04, as provided 11 U.S.C. Bankruptcy Rule 4006 and 362(c)(2)(c). To date, Judge Jeannie Latta is continuing to exercise unlawful, unconstitutional and criminally oppressive, dictatorial jurisdiction and authority over debtor' life, liberty, property, rights and interest.

The power of these judges reaches are so strong, they took a wrongful foreclosure action out of State court after the bankruptcy court had already granted relief from stay and abandonment of real property appraised at the time of $2,100,000 and foreclosed on for $750,000 and the disputed debt of about $1,500,000 on a disputed claim, wherein the creditor never filed a proof of claim in Marilyn Conway's chapter 11 case.

And at no time were there ever any mandatory required 20 day notices given to either the debtor or creditors to object which was only about 3 week after the first ever filing of a chapter 11 reorganization petition of Marilyn Conway.

11 U.S.C. §§ 2002(a)(c) and 3001(e)(h) and 3003(a)(b)(1)(c)(2) mandatory requires filing proof of claim and giving notices to file objections to creditors and debtor.

Further, these ruling are intended to obstruct justice and deprive petitioners/debtor of all rights property and claims and remedies, including due process and equal protection of law.

The herein fraudulent taking of petitioners 80,000 square feet 8 story, concrete and steel commercial building in prime location worth 4,000,0000+ "as is" and $16,500,000 on completion of repairs, that was not in default, is part of the same continuing fraud scheme, flushed nakedly into the open.

This is the only court who can remedy and rectify this grave constitutional problem. This matter is of great public importance, every lawyer, businessman, politician and informed citizen of Memphis is well aware of this open and naked fraud, criminal oppression against petitioners/debtor and their family. The public faith will never be restored in the federal judiciary and government at Memphis if this court does not stop this racketeering cancer that respondent and their attorney are actors in the first degree and willing participants and beneficiaries and should be made to answer for their wrongs and unclean hands.

REASONS FOR GRANTING THE PETITION

1. To vindicate and protect the public interest and petitioners from continuing harmful and unlawful acts and make them citizens with rights again.

2. To restore the public faith and trust in the law, the government and federal judiciary.

3. To send a message to all public officials and judges across America that no one is above the law and that judges and public officials cannot act lawlessly and exceed their jurisdiction and pervert their powers, take and withhold official action, under color of official right and undermine the government and defraud the United States Government of its right to have the lawful functions of the judicial power of the United States exercised and administered free from unlawful impairment and obstruction and more particularly its right to the conscientious, faithful, disinterested and unbiased judgment and action of the parties herein responsible, free from corruption, partiality, improper, influence, bias, dishonesty, fraud and conspiracy so to do.

4. To hold the respondents responsible for their unprecedential wrongful actions and unclean hands and take the profit out of their ill gotten gains and intentional harm, injury, damage and wrong to petitioners.

5. To send a message to the courts below that frauds and criminal misconduct sworn to under penalty of perjury must be looked at seriously and not disregarded or suppressed especially in Title 11 cases that Congress has mandated are criminal acts.

6. To resolve the conflict between mootness rule, application of the Sixth Circuit Court of Appeals in this case and the Ninth Circuit Court of Appeals as in regards M. Capital Corporation (2003 BAP 9th Cir.) BAP CC-02-1234 MOKMA CC-02-1199 MOKA (Consollidated) Bankruptcy # SA99-16415 and *In re: Thomas v. Namba*, 287 B.R. 782 (9th Cir. BAP 2002).

7. That the courts and other practitioners below be reminded that the law and especially provisions of congressionally mandated law must be expressly followed and cannot be excepted.

8. To send a message to the world that the United States Constitution and laws are not just slogans and propaganda but are real, applicable and fundamental to a civilized society and its continuation and well being.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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